

03:10PM

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH BONGIOVANNI,

Defendant.

Case No. 1:19-cr-227
(LJV)

February 20, 2024

TRANSCRIPT EXCERPT - EXAMINATION OF A.P.
BEFORE THE HONORABLE LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE

APPEARANCES:

TRINI E. ROSS, UNITED STATES ATTORNEY
BY: JOSEPH M. TRIPI, ESQ.
NICHOLAS T. COOPER, ESQ.
CASEY L. CHALBECK, ESQ.

Assistant United States Attorneys
Federal Centre
138 Delaware Avenue
Buffalo, New York 14202

And

UNITED STATES DEPARTMENT OF JUSTICE
BY: JORDAN ALAN DICKSON, ESQ.

1301 New York Ave NW
Suite 1000
Washington, DC 20530-0016
For the Plaintiff

SINGER LEGAL PLLC

BY: ROBERT CHARLES SINGER, ESQ.
80 East Spring Street
Williamsville, New York 14221

And

LAW OFFICES OF PARKER ROY MacKAY
BY: PARKER ROY MacKAY, ESQ.

3110 Delaware Avenue
Kenmore, New York 14217
For the Defendant

PRESENT:

BRIAN A. BURNS, FBI Special Agent
MARILYN K. HALLIDAY, HSI Special Agent
KAREN A. CHAMPOUX, USA Paralegal

1 **LAW CLERK:** REBECCA FABIAN IZZO, ESQ.

2 **COURT DEPUTY CLERK:** COLLEEN M. DEMMA

3 **COURT REPORTER:** ANN MEISSNER SAWYER, FCRR, RPR, CRR
4 Robert H. Jackson Federal Courthouse
5 2 Niagara Square
6 Buffalo, New York 14202
7 Ann_Sawyer@nywd.uscourts.gov

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9
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11 * * * * *

12 (Excerpt commenced at 3:10 p.m.)

13 (Jury is present.)

03:10PM 14 **THE COURT:** Okay. The record will reflect that all
03:10PM 15 our jurors are present again.

03:10PM 16 The government can call its next witness.

03:10PM 17 **MR. COOPER:** The government calls A.P.

03:10PM 18 **A.P. (Protected Witness 4),** having been duly called and sworn,
03:10PM 19 testified as follows:

03:10PM 20 **DIRECT EXAMINATION BY MR. COOPER:**

03:11PM 21 Q. Thank God you spelled your last name for us.

03:11PM 22 Will you introduce yourself to the jury, please?

03:11PM 23 A. Hi, I'm A.P.

03:11PM 24 Q. Where did you grow up, A.P.?

03:11PM 25 A. I grew up in Batavia, New York.

03:11PM Q. And how far did you go in school?

03:11PM 1 A. I graduated high school. I have some college. And I
03:11PM 2 have a cosmetology license, as well.

03:11PM 3 Q. And how old are you now?

03:11PM 4 A. I'm 38.

03:11PM 5 Q. Did there come a time in your life when you began using
03:11PM 6 drugs?

03:11PM 7 A. Yes.

03:11PM 8 Q. Can you tell me a little bit about that? When did that
03:11PM 9 start?

03:11PM 10 A. It was, I think, my first night after I had worked at
03:12PM 11 Pharaoh's dancing, I went to a party after, and friends of
03:12PM 12 mine were using.

03:12PM 13 Q. You said you think it was your first night after you
03:12PM 14 worked at Pharaoh's. How old were you when you started
03:12PM 15 working at Pharaoh's?

03:12PM 16 A. 22.

03:12PM 17 Q. Do you remember what year that would have been, or
03:12PM 18 approximately when you were 22?

03:12PM 19 A. I'm so bad with math.

03:12PM 20 Q. Would it have been about 2007?

03:12PM 21 A. Yeah, 2007, sorry.

03:12PM 22 Q. That's okay. Can you describe for the jury from that
03:12PM 23 first time that you used drugs, did that progress to the
03:12PM 24 point where you were using drugs more frequently? Tell them
03:12PM 25 about that.

03:12PM 1 A. Yeah. At first I just kind of was using it when other
03:12PM 2 people had it around me. But when I started working at
03:12PM 3 Pharaoh's, I -- it was around a lot. And I just started
03:13PM 4 buying it for myself. Almost got to the point where I would
03:13PM 5 have to use to be able to dance and work my whole shift.
03:13PM 6 Q. What kind of drug are you talking about?
03:13PM 7 A. Cocaine. Pot, weed as well.
03:13PM 8 Q. You told us that you started working at Pharaoh's. Is
03:13PM 9 that Pharaoh's Gentlemen's Club?
03:13PM 10 A. Yes.
03:13PM 11 Q. And can you describe back in 2007 when you began working
03:13PM 12 there what it was like to work there?
03:13PM 13 A. Yeah. Yeah, I -- I don't know, I was new to all of this.
03:13PM 14 I had never even been in a strip club before. One of my
03:13PM 15 girlfriends was working there, and I had heard that she was
03:13PM 16 making a ton of money. And I had danced my whole life at,
03:13PM 17 like, a dance school since I was three years old. And one of
03:13PM 18 my guy friends was going to go up there, to Pharaoh's, for
03:14PM 19 the night, so I went with. And I kind of just sat at first
03:14PM 20 and watched, and then I ended up going on stage and working
03:14PM 21 the rest of the night.
03:14PM 22 Q. You mentioned a moment ago that you were around it a lot,
03:14PM 23 referring to drug use. Can you describe what you observed at
03:14PM 24 Pharaoh's Gentlemen's Club with respect to drug use?
03:14PM 25 A. I mean, there was girls using, there was customers using,

03:14PM

1 employees using.

03:14PM

2 Q. When you say "using," what sorts of drugs did you observe

03:14PM

3 people using inside Pharaoh's?

03:14PM

4 A. Cocaine, weed. I didn't physically see anybody use

03:14PM

5 heroin, but you could see track marks on girls. I witnessed,

03:14PM

6 you know, girls falling asleep right after they came out of

03:15PM

7 the bathroom, passed out, out of it.

03:15PM

8 Q. Did you personally observe other dancers smoke marijuana

03:15PM

9 at Pharaoh's?

03:15PM

10 A. Yes.

03:15PM

11 Q. Did you smoke marijuana at Pharaoh's?

03:15PM

12 A. Yes.

03:15PM

13 Q. Did you personally observe other dancers use cocaine at

03:15PM

14 Pharaoh's?

03:15PM

15 A. Yes.

03:15PM

16 Q. Did you use cocaine at Pharaoh's?

03:15PM

17 A. Yes.

03:15PM

18 Q. Did you see patrons or customers use cocaine at

03:15PM

19 Pharaoh's?

03:15PM

20 A. Yes.

03:15PM

21 Q. And I think you said this a moment ago, but did you

03:15PM

22 personally observe with your eyes, other dancers use heroin

03:15PM

23 at Pharaoh's?

03:15PM

24 A. No.

03:15PM

25 Q. Despite the fact that you didn't see it with your eyes,

03:15PM 1 did you develop an understanding from working there as to
03:15PM 2 whether dancers used heroin at Pharaoh's?

03:15PM 3 A. Yes.

03:15PM 4 Q. Okay. And what did you base that understanding off of?

03:15PM 5 A. Girls talk. You know, people say, this girl's got track
03:15PM 6 marks on her, you know, legs. She acts a certain way when
03:15PM 7 she gets out of the bathroom. The movements. You know, you
03:16PM 8 shouldn't be going to the bathroom and passing out in the
03:16PM 9 middle of your shift and out of it to the point where we
03:16PM 10 can't wake you up.

03:16PM 11 Q. Have you heard the phrase "nodding out" before?

03:16PM 12 A. Yes.

03:16PM 13 Q. Are you familiar with what that phrase means?

03:16PM 14 A. Yes.

03:16PM 15 Q. What do you understand that to mean?

03:16PM 16 A. Just where you nod out to sleep, or where you're out of
03:16PM 17 it.

03:16PM 18 Q. Okay. Have you observed dancers at Pharaoh's go into the
03:16PM 19 bathroom come out and nod out or --

03:16PM 20 A. Yes.

03:16PM 21 Q. Okay. Do you know a person by the name of Peter Gerace?

03:16PM 22 A. Yes.

03:16PM 23 Q. How do you know that person?

03:16PM 24 A. Peter and I dated on and off for six years. And I used
03:16PM 25 to work for him at Pharaoh's.

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1 Q. What was your understanding of his job at Pharaoh's, or
2 his title?
3 A. He was the owner.
4 Q. Okay. Now, you told the jury a moment ago about your
5 first night there when you kind of first went in as a
6 customer and then started working right way. How long after
7 that first night did you meet Peter Gerace, approximately?
8 A. A couple months. Three or four months, maybe.
9 Q. And did you meet him inside the club or outside the club?
10 A. Inside.
11 Q. Can you describe the first time you met him for the jury?
12 A. I believe that I had either left a Bills game or was
13 going to watch the Bills game at Pharaoh's with two of my
14 friends. And then Peter had come out and, you know, was just
15 saying hi to everybody and buying drinks. And he came over,
16 we were just kind of hanging out, drinking, talking. And
17 then after some time, he gave me some money and asked me to
18 go to an address and to pick up some cocaine.
19 Q. That was the first night that you met him?
20 A. Um-hum. Yes.
21 Q. So, Ann's typing down everything that gets said, so she
22 can't type down nods of heads.
23 A. Okay.
24 Q. So just answer verbally.
25 You told us the first night you met Peter, he gave you

03:18PM 1 money and asked you to go to an address and pick up cocaine;

03:18PM 2 is that correct?

03:18PM 3 A. Yes.

03:18PM 4 Q. Did you do that?

03:18PM 5 A. Yes.

03:18PM 6 Q. Do you remember where the address was?

03:18PM 7 A. Virginia Place in Buffalo.

03:18PM 8 Q. Did you go by yourself or did someone go with you?

03:18PM 9 A. By myself.

03:18PM 10 Q. Did you purchase cocaine?

03:18PM 11 A. I did.

03:18PM 12 Q. Do you remember about how much money Peter gave you?

03:18PM 13 A. Somewhere around 2- to \$300.

03:18PM 14 Q. By this time in your life, had you been using cocaine

03:18PM 15 regularly?

03:18PM 16 A. Yes.

03:18PM 17 Q. Did you meet with a person to purchase the cocaine?

03:18PM 18 A. Yes.

03:18PM 19 Q. Do you remember who that person was?

03:18PM 20 A. Yes.

03:18PM 21 Q. Who was it?

03:18PM 22 A. Marcus Hatten.

03:19PM 23 Q. Okay. Did Marcus Hatten have a nickname, or another name

03:19PM 24 he went by?

03:19PM 25 A. Marcus Black. Black Marcus.

03:19PM

1 Q. Okay. What did you do after you purchased the cocaine
2 from Marcus Black?

03:19PM

03:19PM

3 A. I went back to Pharaoh's to meet Peter.

03:19PM

4 Q. And about how much cocaine did you get for that couple
5 hundred dollars?

03:19PM

03:19PM

6 A. It was -- sorry, what is it called? Not a gram, what's
7 bigger -- not an ounce. 8 Ball. Thank you.

03:19PM

03:19PM

8 Q. Is there a -- is there a slang term called an 8 Ball that
9 relates to cocaine?

03:19PM

03:19PM

10 A. Yes.

03:19PM

11 Q. Okay. And is an 8 Ball like a certain amount of cocaine?

03:19PM

12 A. It's, like, 3 and a half grams, I think, of it, or around
13 there or something.

03:19PM

03:19PM

14 Q. And so is it your recollection that you purchased an
15 8 Ball of cocaine from Marcus Black?

03:19PM

03:20PM

16 A. Yes.

03:20PM

17 Q. Where did you bring the cocaine?

03:20PM

18 A. Back to Pharaoh's.

03:20PM

19 Q. Who did you give it to?

03:20PM

20 A. Peter.

03:20PM

21 Q. What did you -- did you observe what he did with it?

03:20PM

22 A. I think he put it in his pocket.

03:20PM

23 Q. Okay. Did you use cocaine with Peter Gerace that night?

03:20PM

24 A. Yes.

03:20PM

25 Q. Was it the cocaine that you had just gone and purchased

03:20PM

1 for him?

03:20PM

2 A. Yes.

03:20PM

3 Q. Was that just the two of you, or were other people

03:20PM

4 present for that cocaine use?

03:20PM

5 A. I believe it was us two. I don't know if there was

03:20PM

6 anyone else.

03:20PM

7 Q. Do you remember where in the club that happened?

03:20PM

8 A. I believe we went upstairs.

03:20PM

9 Q. Can you just describe for the jury, when you say I

03:20PM

10 believe we went upstairs, what's the layout of Pharaoh's like

03:20PM

11 for the jury?

03:20PM

12 A. So if you're walking in as a customer, you walk into

03:20PM

13 where they check your ID. When you walk past there, the

03:20PM

14 stage is right to your left, the bar is to your right. And

03:21PM

15 then if you go past the bar to the right, there's a hallway

03:21PM

16 that leads to the kitchen and office. And before the office

03:21PM

17 is the upstairs.

03:21PM

18 Q. Is that upstairs an area that's accessible to the general

03:21PM

19 public, like the stage area?

03:21PM

20 A. No.

03:21PM

21 Q. Who has access to the upstairs?

03:21PM

22 A. Peter, and then when he was there, Don Parrino.

03:21PM

23 Q. What was Don Parrino's role as Pharaoh's?

03:21PM

24 A. He was also an owner.

03:21PM

25 Q. Did you know Don Parrino to use cocaine?

03:21PM 1 A. No.

03:21PM 2 Q. A moment ago, you told us about an individual named
03:21PM 3 Marcus Hatten or Marcus Black. Did you ever see that
03:21PM 4 individual inside of Pharaoh's Gentlemen's Club?

03:21PM 5 A. Lots of times.

03:21PM 6 Q. Can you approximate how many -- is that, like, once a
03:21PM 7 week? Once a month?

03:22PM 8 A. Once every few weeks.

03:22PM 9 Q. You told us about one instance of purchasing cocaine from
03:22PM 10 Black, but have you ever purchased cocaine from Marcus Black
03:22PM 11 inside of Pharaoh's?

03:22PM 12 A. Yes.

03:22PM 13 Q. Do you know whether Gerace knew Marcus Black personally?

03:22PM 14 A. Yes.

03:22PM 15 Q. How do you know that?

03:22PM 16 A. They were friends.

03:22PM 17 Q. Based on your observations?

03:22PM 18 A. Yeah, they had each other's numbers. He -- they knew
03:22PM 19 each other. Any time that Marcus was in Pharaoh's, they were
03:22PM 20 hanging out. I can go beyond that and say there's times
03:22PM 21 where we all hung out.

03:22PM 22 Q. Okay. So based on your own observations, used seen
03:22PM 23 Gerace interact with Marcus?

03:22PM 24 A. Yes.

03:22PM 25 Q. And you believe them to be friends?

03:22PM

1 A. Yes.

03:22PM

2 Q. A.P., did you ever sell cocaine?

03:23PM

3 A. Yes.

03:23PM

4 Q. Did you sell cocaine at Pharaoh's Gentlemen's Club?

03:23PM

5 A. Yes.

03:23PM

6 Q. Can you tell the jury a little bit about that?

03:23PM

7 A. At one point, I decided to buy a large amount of cocaine

03:23PM

8 and to cover my own habit, and then to sell it to any of the

03:23PM

9 girls that were working. And if there was a customer I knew

03:23PM

10 that was coming in that spent a lot of time in the back with

03:23PM

11 me, I would sell it to them as well to get them to stay and

03:23PM

12 spend more money.

03:23PM

13 Q. Did you make \$1 million selling cocaine as Pharaoh's?

03:23PM

14 A. No.

03:23PM

15 Q. Were you getting rich?

03:23PM

16 A. No.

03:23PM

17 Q. How much cocaine were you using at that time in your life

03:23PM

18 per day?

03:23PM

19 A. At least a gram a day.

03:23PM

20 Q. Is that an expensive habit?

03:23PM

21 A. Yeah, a gram then was \$50.

03:24PM

22 Q. Did you ever have drugs fronted to you?

03:24PM

23 A. Yes.

03:24PM

24 Q. What does it mean? Describe that for the jury, to have

03:24PM

25 drugs fronted to you.

03:24PM 1 A. When you're not able to pay for the drugs, you don't have
03:24PM 2 enough money, you can ask them to give it to you, and you try
03:24PM 3 to give them a timely manner when you can pay them back.

03:24PM 4 Q. Is that just like getting drugs on credit, basically?

03:24PM 5 A. Yeah.

03:24PM 6 Q. Okay. Now, earlier in your direct examination, you
03:24PM 7 mentioned that at some point you carried on a relationship
03:24PM 8 with Peter Gerace; is that correct?

03:24PM 9 A. Correct.

03:24PM 10 Q. Okay. So you met him a few months after you started
03:24PM 11 working there. When did this relationship begin?

03:24PM 12 A. Pretty sure just kind of immediately after I -- you know,
03:24PM 13 really met him, within a few weeks I would say.

03:25PM 14 Q. And how long did that last?

03:25PM 15 A. We dated steady for about four to five months
03:25PM 16 exclusively. And then on and off for the next six years that
03:25PM 17 I was around him.

03:25PM 18 Q. Were you working at Pharaoh's that whole time, the four
03:25PM 19 to five months that you were steadily dating him?

03:25PM 20 A. Yes.

03:25PM 21 Q. Okay. And then you mentioned the whole period of time
03:25PM 22 about six years on and off; is that correct?

03:25PM 23 A. Yes.

03:25PM 24 Q. Were you working at Pharaoh's that whole time?

03:25PM 25 A. Yes.

03:25PM 1 Q. Okay. Did you ever get caught selling cocaine or having
03:25PM 2 cocaine at Pharaoh's Gentlemen's Club?

03:25PM 3 A. Yes.

03:25PM 4 Q. Can you describe that? Who caught you?

03:25PM 5 A. There was a manager, his name is Chris Chudy. He didn't
03:25PM 6 particularly care for me. So any -- anything he could do to
03:25PM 7 try to get me out, he made it his job.

03:25PM 8 And one night, I had picked up an ounce from
03:26PM 9 someone, and I split it up into halves, and decided to go
03:26PM 10 into Pharaoh's and leave half of it there for when I was
03:26PM 11 going to be working again, and when -- I had a dressing room
03:26PM 12 there, so I was able to lock it up.

03:26PM 13 And when I left, Chris Chudy went in and found it
03:26PM 14 and dumped it down the toilet, removed all of my things and
03:26PM 15 the other girl that was in the locker with me -- or, the --
03:26PM 16 I'm sorry, the dressing room with me. Put all of our stuff
03:26PM 17 to the door, and we were told that we couldn't work there
03:26PM 18 anymore.

03:26PM 19 Q. Were you fired?

03:26PM 20 A. Yes.

03:26PM 21 Q. What was your understanding of who fired you?

03:26PM 22 A. Chris, the manager, fired me.

03:26PM 23 Q. After you were fired, were you able to immediately go
03:26PM 24 back and start working at Pharaoh's?

03:26PM 25 A. No.

03:27PM 1 Q. Okay. Did there come a time when you were able to go
03:27PM 2 back and start working at Pharaoh's?

03:27PM 3 A. Yes.

03:27PM 4 Q. Can you describe for the jury how that played out?

03:27PM 5 A. So, Chris, after he found the cocaine and dumped it, told
03:27PM 6 the other owner, Don Parrino. And he wasn't a fan of any
03:27PM 7 kind of drugs like that. So, I wasn't allowed to work there,
03:27PM 8 I wasn't allowed in there to drink or to be a patron even
03:27PM 9 though I was on and off dating Peter at the time, he wasn't
03:27PM 10 allowed to be at Pharaoh's in the building. I forget exactly
03:27PM 11 what the issues were between him and Don are, if he had legal
03:27PM 12 issues, but he wasn't able to put his voice in to say I could
03:27PM 13 work there or be there. He had no control over the
03:27PM 14 situation, so --

03:27PM 15 Q. So, describe for the jury how you were able to get
03:28PM 16 back --

03:28PM 17 A. Oh, I'm sorry.

03:28PM 18 Q. -- to work -- that's okay.

03:28PM 19 A. So, when he was allowed back into Pharaoh's, I was able
03:28PM 20 to go back. I did sneak in one time. We did a Pharaoh's
03:28PM 21 golf tournament, and we were out in the sun all day. We were
03:28PM 22 going somewhere after. They had snuck me in through the back
03:28PM 23 door to take a shower upstairs with a couple other girls.

03:28PM 24 And Don Parrino's wife, Adele, had caught wind that I was
03:28PM 25 in the building. I think Chris Chudy was there, and called

1 them or something. And they made a big stink about it. And
2 I had to leave.

3 But, shortly after that, Peter was allowed into
4 Pharaoh's, and he was able to go back.

5 Q. So once Peter got back in control of Pharaoh's, were you
6 allowed to go back and continue working there?

7 A. Yes.

8 Q. Do you know an individual name Joseph Bongiovanni?

9 A. I know of him, who he is.

10 Q. Okay. So, let me clarify. Are you close personal
11 friends with him?

12 A. No.

13 Q. But do you know the name?

14 A. I do.

15 Q. How do you know an individual name Joseph Bongiovanni?

16 A. I was introduced to him one night at Pharaoh's through
17 Peter.

18 Q. Can you describe the -- kind of the context of how that
19 played out for the jury?

20 A. I don't remember if I was working or socializing. I just
21 remember being introduced to him, shaking his hand, and just
22 kind of drinking with everybody and hanging out.

23 I don't think we had a conversation. Just hi, how are
24 you, nice to meet you.

25 Q. Did Peter introduce you to Joe and tell you Joe's name?

03:29PM 1 A. Yes.

03:29PM 2 Q. Did you socialize with them at least briefly?

03:29PM 3 A. Hi, how are you, kind of thing. Nothing more than that.

03:30PM 4 Q. Did you know when you met Bongiovanni what he did for
03:30PM 5 work?

03:30PM 6 A. I think he might have mentioned that either before or
03:30PM 7 after, I'm not sure.

03:30PM 8 Q. Who's the "he" in that sentence?

03:30PM 9 A. I'm sorry, Peter.

03:30PM 10 Q. That's okay. What did Peter mention?

03:30PM 11 A. I mean, at some point, I was given a card that had Joe's
03:30PM 12 name on it that said he was a DEA agent. And Peter told me
03:30PM 13 that if I --

03:30PM 14 **MR. SINGER:** Objection, hearsay.

03:30PM 15 **MR. COOPER:** Judge, can we approach?

03:30PM 16 **THE COURT:** Sure.

03:30PM 17 (Sidebar discussion held on the record.)

03:30PM 18 **THE COURT:** So why is this not coconspirator
03:30PM 19 statement?

03:30PM 20 **MR. SINGER:** I guess I'm interested to find out as to
03:30PM 21 why. Just because Peter Gerace said something doesn't mean
03:30PM 22 that it's made in furtherance of the conspiracy.

03:31PM 23 **THE COURT:** So why don't we do a proffer. We're
03:31PM 24 supposed to do this anyway, right? We're supposed to proffer
03:31PM 25 this sort of stuff before. Go ahead.

03:31PM 1 **MR. COOPER:** So I was not trying to violate that
03:31PM 2 proffer rule. My view would be --

03:31PM 3 **MR. SINGER:** I didn't think so.

03:31PM 4 **MR. COOPER:** I appreciate that.

03:31PM 5 My view of the statement is that it's a command, and
03:31PM 6 so commands are not hearsay. So it's not hearsay.

03:31PM 7 **THE COURT:** We don't know what she's gonna say, do
03:31PM 8 we?

03:31PM 9 **MR. COOPER:** Well, the defense knows what she's gonna
03:31PM 10 say because it's contained in her Jencks, but I --

03:31PM 11 **THE COURT:** What is she gonna say?

03:31PM 12 **MR. SINGER:** She's gonna say something to the effect
03:31PM 13 of Peter gave this to me, and that he mentioned like, hey,
03:31PM 14 here's a get-out-of-jail free card, or something along those
03:31PM 15 lines. That's what I expect she'll say.

03:31PM 16 **MR. COOPER:** Call this number if you get in trouble,
03:31PM 17 is what I anticipate the witness's testimony will be. Which
03:31PM 18 is why I viewed it that way. But I certainly --

03:31PM 19 **THE COURT:** That's not -- why don't we do a proffer.
03:31PM 20 Why don't we do a proffer.

03:31PM 21 **MR. COOPER:** Okay.

03:31PM 22 **THE COURT:** Okay?

03:31PM 23 (Sidebar discussion ended.)

03:31PM 24 **THE COURT:** Okay, folks, we have to do a little legal
03:32PM 25 work. It shouldn't take very long. But I'm going to excuse

03:32PM 1 you for just a few minutes until we're done.

03:32PM 2 So remember my instructions. Don't talk about the
03:32PM 3 case, don't make up your minds. See you in a few minutes.

03:32PM 4 (Jury excused at 3:32 p.m.)

03:32PM 5 **THE COURT:** Okay. You can sit down, ma'am. And
03:32PM 6 we're going to do what's called a proffer, so that
03:32PM 7 Mr. Cooper's going to ask you some questions. We're going to
03:32PM 8 ask just as if the jury were present, so I get to hear what
03:32PM 9 you're going to say, and I can decide whether it's appropriate
03:32PM 10 or not. Okay?

03:32PM 11 **THE WITNESS:** Okay.

03:33PM 12 (Jury not present.)

03:33PM 13 **BY MR. COOPER:**

03:33PM 14 Q. A.P., you started to finish a sentence, and then there
03:33PM 15 was an objection. Do you remember where your train of
03:33PM 16 thought was headed?

03:33PM 17 A. Yeah.

03:33PM 18 Q. Can you finish that sentence?

03:33PM 19 A. Sure. So I was given a business card that had Joe's name
03:33PM 20 on it. It was blue and white, stating he was a DEA agent.
03:33PM 21 And Peter told me that if I had gotten into trouble, that I
03:33PM 22 could use it to try to get out of trouble.

03:33PM 23 **MR. COOPER:** Do you want me to continue to ask more
03:33PM 24 questions, Judge?

03:33PM 25 **THE COURT:** Well, if there's going to be more of this

1 sort of stuff, yes. If there's more coconspirator
2 statements --

3 **MR. COOPER:** That's the only statement that I
4 expected to come out. So --

5 **THE COURT:** Okay. Mr. Singer?

6 **MR. SINGER:** Sorry, Judge, just give me one moment.
7 I just have one brief voir dire question of the
8 witness on this, Judge.

9 **THE COURT:** Sure, absolutely.

10
11 **VOIR-DIRE EXAMINATION BY MR. SINGER:**

12 Q. Ms. A.P., do you remember speaking with the Federal
13 Bureau of Investigation back in December of 2022 regarding
14 the business card you were given by Mr. Gerace?

15 A. Yeah.

16 Q. And do you remember sitting down with agents and talking
17 to them about what it was that Mr. Gerace supposedly said to
18 you at that point in time?

19 A. I don't know.

20 Q. If I handed you a copy of the FBI report on your
21 conversation, would that refresh your memory as to that?

22 A. Sure.

23 Q. Sure. So I'm going to hand you a copy of what's been
24 marked as Government Exhibit 3505B-1?

25 **THE COURT:** 3505, B as in boy, 1?

03:35PM 1 **MR. SINGER:** Correct, Judge.

03:35PM 2 **BY MR. SINGER:**

03:35PM 3 Q. I just direct your attention to that part as bracketed in
03:35PM 4 the green pen. When you've had an opportunity to look at
03:35PM 5 that and read through it, please look up at me before you
03:35PM 6 answer any other questions.

03:35PM 7 A. I would never say that I got his card from a law
03:35PM 8 enforcement officer.

03:35PM 9 Q. Let me just take that away from you before you answer.

03:35PM 10 **THE COURT:** Let him ask you questions, ma'am.

03:35PM 11 **BY MR. SINGER:**

03:35PM 12 Q. Have you had enough time to review it? Or do you want to
03:35PM 13 read through it again? We're not in any rush, so --

03:36PM 14 A. Yeah, I'm okay.

03:36PM 15 Q. Okay. So I'll take that exhibit away from you.

03:36PM 16 Does that help refresh your memory as to what you told
03:36PM 17 law enforcement that day?

03:36PM 18 A. No, because I didn't -- I don't remember saying that at
03:36PM 19 all. Why -- who is -- a law enforcement agent?

03:36PM 20 Q. So you don't recall saying anything to the effect of, and
03:36PM 21 I quote, and this quoted inside of the exhibit, quote, if you
03:36PM 22 ever get in trouble, here you go. When you're referring to
03:36PM 23 what Mr. Gerace told you when you received --

03:36PM 24 A. I just said that, didn't I --

03:36PM 25 **MR. COOPER:** Objection.

03:36PM 1 **THE COURT:** Hang. Stop, stop, stop, please.

03:36PM 2 Go ahead.

03:36PM 3 **MR. COOPER:** I object. This is an improper

03:36PM 4 impeachment. There's no purpose of impeaching a witness

03:36PM 5 during a legal proffer for a judge to make an assessment of

03:36PM 6 whether the testimony the witness offered satisfies

03:37PM 7 foundational requirements. He's free to cross-examine the

03:37PM 8 witness obviously, but this isn't the time for it.

03:37PM 9 **THE COURT:** I don't see any inconsistency between

03:37PM 10 what she told Mr. Cooper and what she just told you.

03:37PM 11 **MR. SINGER:** And so I guess if we're --

03:37PM 12 **THE COURT:** Hang on. We can excuse the witness if we

03:37PM 13 need to for the argument, or you guys can come up to the bench

03:37PM 14 and we can talk about it. Your call, Mr. Singer.

03:37PM 15 **MR. SINGER:** No, I think we can probably come up to

03:37PM 16 the bench, Judge. We don't have to excuse the witness.

03:37PM 17 (Sidebar discussion held on the record.)

03:37PM 18 **MR. SINGER:** So, again, my -- my objection is based

03:37PM 19 on hearsay, Judge.

03:37PM 20 Mr. Cooper and the government phrased this as being

03:37PM 21 some type of command. I don't think there's any dispute as we

03:37PM 22 just established that what was told to the witness was if you

03:37PM 23 ever get in trouble, here you go. It wasn't a command of if

03:37PM 24 you get in trouble, call this number, Ms. A.P..

03:37PM 25 **THE COURT:** Why isn't he -- why is that any

03:38PM 1 different? Why does that make it hearsay as opposed to a
03:38PM 2 statement? I'm having a hard time -- what's the -- what is
03:38PM 3 the -- the factual statement, the truth of which is being
03:38PM 4 offered?

03:38PM 5 **MR. SINGER:** So the truth of it is that it's being
03:38PM 6 offered to make some type of link between Peter Gerace and
03:38PM 7 Mr. Bongiovanni and the conspiracy itself. That's --
03:38PM 8 that's --

03:38PM 9 **THE COURT:** But what is the hearsay statement? What
03:38PM 10 is hearsay?

03:38PM 11 **MR. SINGER:** The hearsay is, is Peter Gerace making
03:38PM 12 that statement, it's an out-of-court statement the
03:38PM 13 government's offering to show the jury that it was made for
03:38PM 14 the truth of the matter asserted, which was there was --

03:38PM 15 **THE COURT:** Okay. What's the truth of the matter
03:38PM 16 asserted?

03:38PM 17 **MR. SINGER:** Which is that there was a conspiracy
03:38PM 18 that exists between Peter Gerace and Joseph Bongiovanni.

03:38PM 19 **THE COURT:** What is the truth of the matter asserted?
03:38PM 20 What's the truth of the hearsay statement?

03:38PM 21 **MR. SINGER:** The truth is that at that point in time,
03:38PM 22 so, if you go back to the indictment, Judge, at that point in
03:39PM 23 time, the government has alleged in the indictment that
03:39PM 24 there's a conspiracy ongoing.

03:39PM 25 **THE COURT:** I understand that.

03:39PM

1

MR. SINGER: Conspiracy.

03:39PM

2

THE COURT: But for it to be hearsay, Mr. Singer, the

03:39PM

3

statement has to be offered for the truth of the statement.

03:39PM

4

So what's the truth? So, the fact that Gerace hands her a

03:39PM

5

card and says this is a get-out-of-jail-free card, use this if

03:39PM

6

you get in trouble. What's the truth?

03:39PM

7

The truth would that be she could use it if she gets

03:39PM

8

in trouble? That's not the point of it. The point is that

03:39PM

9

Gerace told her that, and that's not hearsay.

03:39PM

10

The fact that Gerace told her is not hearsay, right?

03:39PM

11

The witness is testifying to a statement that was made to her,

03:39PM

12

so that's not hearsay.

03:39PM

13

MR. SINGER: Right. But that is, that statement,

03:39PM

14

Judge, was made to her out of court --

03:39PM

15

THE COURT: Yes.

03:39PM

16

MR. SINGER: -- now it's being offered in court to

03:39PM

17

prove the truth of what the government's asserting, which is

03:39PM

18

that this conspiracy exists.

03:39PM

19

THE COURT: No, no. But, if he said I'm in a

03:40PM

20

conspiracy with Joseph Bongiovanni, then you'd be right

03:40PM

21

because now we have a statement that's being offered for its

03:40PM

22

truth.

03:40PM

23

What is the statement, here's a card, use it if you

03:40PM

24

get in trouble. What truth of that statement is it being

03:40PM

25

offered for?

03:40PM 1 **MR. SINGER:** It's being offered to prove the
03:40PM 2 connection between Gerace and Bongiovanni --

03:40PM 3 **THE COURT:** But that's not hearsay. Now you're
03:40PM 4 arguing something different. You're not arguing hearsay now.

03:40PM 5 **MR. SINGER:** No, I -- so I would agree with you,
03:40PM 6 Judge. This statement is not as explicit as the hypothetical
03:40PM 7 you just posed, which is, hey, I'm in a conspiracy with Joe
03:40PM 8 Bongiovanni. Right? Like, it's not that explicit.

03:40PM 9 But it's still hearsay, and it's still being offered
03:40PM 10 for the truth of the matter asserted, which in the
03:40PM 11 government's situation is that they are coconspirators, and
03:40PM 12 Bongiovanni is in cahoots with Gerace, and therefore, when
03:40PM 13 this business card is hand over to someone else, it's hey,
03:40PM 14 like, I know Joe, and he's one of my connects, and as a
03:41PM 15 result, like, you use this to get yourself out of trouble.

03:41PM 16 That's why it's being offered, Judge. It's not being
03:41PM 17 offered for any other purpose other than that.

03:41PM 18 The government wouldn't be offering it for any other
03:41PM 19 purpose because it wouldn't be relevant if it wasn't offered
03:41PM 20 for that purpose.

03:41PM 21 I'm assuming that the government is going to claim
03:41PM 22 relevance of this to show that they were in cahoots with each
03:41PM 23 other.

03:41PM 24 **MR. COOPER:** It's super relevant, I 100 percent
03:41PM 25 agree. But defense counsel can't detach you from the facts of

1 what she just said, which not a hearsay statement. It's just
2 not. The court knows it's not. You've said it eight times, I
3 don't have to --

4 **THE COURT:** Yeah, I agree with that, Mr. Singer. If
5 that's your objection, it's overruled.

6 **MR. SINGER:** So I guess what I renew is on a 403
7 objection, Judge. You know, on top of -- I realize you've
8 ruled against me on the hearsay objection, but on top of the
9 hearsay objection I've made, it's also misleading, and it's
10 also confusing the issues.

11 The fact that this business card was handed, and I
12 think part of the problem is, is that, and this is where the
13 witness got into it a little bit when I tried to refresh her
14 recollection with what she originally told the FBI as opposed
15 to today, is that she remembers being handed some type of card
16 from law enforcement first, doesn't know who it is, and then
17 Mr. Gerace makes this comment. And then later on she suddenly
18 remembers, oh, this is Bongiovanni's card. And then tries to
19 draw that.

20 And that's part of the problem, Judge, is that it
21 confuses the issues. It's misleading in the respect that
22 simply saying here's a card, and you know, like, call somebody
23 if you need help, that doesn't imply anything about whether
24 they're in a conspiracy or not, it doesn't apply --

25 **THE COURT:** And you can argue that when you

1 cross-examine on it. That's not a reason to keep it out.

2 **MR. SINGER:** Very well.

3 (End of sidebar discussion.)

4 **THE COURT:** Okay. So, Mr. Cooper, if that's the end
5 of the proffer, we can bring the jury back.

6 **MR. COOPER:** Thank you. Judge.

7 And Judge, would you like the witness to know your
8 ruling on the -- she can answer that question, right?

9 **THE COURT:** Yeah.

10 **MR. COOPER:** Okay.

11 (Jury seated at 3:43 p.m.)

12 **THE COURT:** Okay. So, the -- I don't know that there
13 was an objection, formal objection made. Mr. Singer did some
14 voir dire of the witness, and now that's ended.

15 You may ask the next question.

16 **MR. COOPER:** Okay. Thank you, Judge.

17
18 **CONTINUED DIRECT EXAMINATION BY MR. COOPER:**

19 Q. Ms. A.P., a moment ago, you were testifying about
20 receiving a business card with Joseph Bongiovanni's name on
21 it. Who gave that you have business card?

22 A. Peter Gerace.

23 Q. Okay. And was that around the same time that you met
24 Bongiovanni in person?

25 A. Around.

03:47PM 1 Q. Okay. And what did Peter Gerace say to you when he gave
03:47PM 2 you Joseph Bongiovanni's business card?

03:47PM 3 A. He said that if I ever got in trouble, that I could use
03:47PM 4 it to help me get out of trouble.

03:47PM 5 Q. Okay. Now, was that after you had picked up cocaine from
03:47PM 6 Marcus Black and brought it back to Peter Gerace?

03:47PM 7 A. No. Oh, I guess, yeah, I'm sorry. I mean, it wasn't the
03:47PM 8 same night.

03:47PM 9 Q. Oh, sure. And let me clarify that question. The very
03:47PM 10 first night you met Peter, you went and bought cocaine from
03:47PM 11 Marcus Black and delivered it to Peter, right?

03:47PM 12 A. Yes.

03:47PM 13 Q. Okay. This meeting Bongiovanni, that didn't happen that
03:47PM 14 same night, right?

03:47PM 15 A. No.

03:47PM 16 Q. So Peter knew that you used cocaine, right?

03:47PM 17 A. Yes.

03:47PM 18 Q. Because you had done it together, right?

03:47PM 19 A. Right.

03:47PM 20 Q. And you testified a little earlier that you had been
03:47PM 21 selling cocaine at Pharaoh's, right?

03:47PM 22 A. Yes.

03:47PM 23 Q. Okay. Did you keep that business card?

03:47PM 24 A. For a long time, yeah.

03:47PM 25 Q. Do you still have it now?

03:47PM 1 A. No.

03:47PM 2 **MR. COOPER:** Just one second, please, Judge.

03:47PM 3 I have no further questions, Judge. Thank you.

03:47PM 4 **THE COURT:** Cross?

03:47PM 5

03:47PM 6 **CROSS-EXAMINATION BY MR. SINGER:**

03:47PM 7 Q. Hi, Ms. A.P..

03:47PM 8 A. Hi.

03:47PM 9 Q. Did I pronounce your name correctly?

03:47PM 10 A. You did a good job.

03:47PM 11 Q. Thank you very much.

03:47PM 12 So testified earlier that you worked at Pharaoh's

03:47PM 13 Gentlemen's Club somewhere between 2007 to 2013?

03:47PM 14 A. Correct.

03:47PM 15 Q. And you were employed as a dancer there?

03:47PM 16 A. I did pretty much everything. I was a dancer, bartended,
03:47PM 17 waitress, shot girl.

03:47PM 18 Q. And your employment at Pharaoh's between that time
03:47PM 19 period, 2007 to 2013, it wasn't continuous, correct?

03:47PM 20 A. What do you mean, for all those years and --

03:47PM 21 Q. Yeah. So, you roughly worked at Pharaoh's between 2007
03:47PM 22 to 2013, right?

03:47PM 23 A. Yes.

03:47PM 24 Q. But there was a time where you mentioned that it was

03:47PM 25 Chris Chudy, who was one of the managers, he caught you with

03:47PM

1 cocaine?

03:47PM

2 A. Yeah.

03:47PM

3 Q. And he fired you?

03:47PM

4 A. Correct.

03:47PM

5 Q. And how long of a period of time were you out of work at
6 Pharaoh's at that point?

03:47PM

7 A. I don't recall how many -- how long it took for me to get
8 back in. But working as a dancer, you're an independent

03:47PM

9 contractor, so I don't have a schedule. I don't have to show
10 up. I could take a month off if I want and come back in. I

03:47PM

11 could do whatever I wanted, basically to that, you know,

03:47PM

12 creating my only schedule. So it was just being off as I

03:47PM

13 wanted it. The only difference would be when I was

03:48PM

14 bartending and waitressing, you actually to show up for your
15 scheduled shift.

03:48PM

16 Q. Okay. And you did a lot of different jobs over the
17 course of that time period?

03:48PM

18 A. Mostly the bartending and waitressing, when Peter and I
19 were exclusive for those four to five months. He didn't want
20 me dancing.

03:48PM

21 Q. And you started dating Peter Gerace in 2007?

03:48PM

22 A. Yes.

03:48PM

23 Q. So that four- or five-month period was in 2007?

03:48PM

24 A. Yes.

03:48PM

25 Q. But then after you guys broke up, and no longer were

03:48PM

03:48PM 1 exclusive, you -- your hours were a little more varied; is
03:48PM 2 that fair to say?

03:48PM 3 A. Yeah. Um-hum. Yes.

03:48PM 4 Q. There was this period of time where you were not allowed
03:48PM 5 back into Pharaoh's based on what Chris Chudy found, correct?

03:48PM 6 A. Correct.

03:48PM 7 Q. And I think during that time period, you weren't allowed
03:48PM 8 in Pharaoh's, you still had to pay the bills, right?

03:48PM 9 A. Sure.

03:48PM 10 Q. So you're working at other clubs around the area?

03:49PM 11 A. I was. I also bartended at different bars on Chippewa.

03:49PM 12 Yeah.

03:49PM 13 Q. And I know this is several years ago, it might be
03:49PM 14 difficult to narrow it down, but roughly speaking, we're not
03:49PM 15 talking about a matter of weeks that you weren't allowed back
03:49PM 16 at Pharaoh's, we're talking more months, correct?

03:49PM 17 A. Yes, um-hum.

03:49PM 18 Q. Okay. So, you spoke earlier about using cocaine at
03:49PM 19 Pharaoh's Gentlemen's Club. You used Pharaoh's by
03:49PM 20 yourself -- sorry, you used at Pharaoh's by yourself; is that
03:49PM 21 right?

03:49PM 22 A. By myself, or with others.

03:49PM 23 Q. Okay. And one of the people that you mentioned that you
03:49PM 24 also used with at Pharaoh's was Peter Gerace?

03:49PM 25 A. Correct.

03:49PM 1 Q. Okay. And do you recall time using with Peter Gerace and
03:49PM 2 also a friend by the name of Phil who was traveling in from
03:49PM 3 Las Vegas?
03:49PM 4 A. Yes.
03:49PM 5 Q. And you talked a little bit about your abuse of
03:50PM 6 narcotics, that started in 2007 roughly?
03:50PM 7 A. Yes.
03:50PM 8 Q. When you started working at Pharaoh's?
03:50PM 9 A. Um-hum. Yes.
03:50PM 10 Q. You mentioned that you used cocaine at that period of
03:50PM 11 time, correct?
03:50PM 12 A. Yes.
03:50PM 13 Q. Were you using marijuana as well?
03:50PM 14 A. Yes.
03:50PM 15 Q. Were you using alcohol?
03:50PM 16 A. Yes.
03:50PM 17 Q. Were you using any other substances?
03:50PM 18 A. No.
03:50PM 19 Q. So, with regard to the cocaine that you were using at
03:50PM 20 that time, fair to say that you had roughly a 1-gram-per-day
03:50PM 21 habit for cocaine?
03:50PM 22 A. At least, yeah.
03:50PM 23 Q. Were there times when it was in excess of 1 gram a day?
03:50PM 24 A. Yes.
03:50PM 25 Q. How about with marijuana, how frequently were you smoking

03:50PM 1 marijuana during that time period?

03:50PM 2 A. Couple times a day.

03:50PM 3 Q. And when you would use marijuana and smoke it, would you
03:50PM 4 use a marijuana cigarette or a joint? Would it be something
03:50PM 5 else?

03:50PM 6 A. A blunt, or sometimes like a bowl glass piece.

03:50PM 7 Q. Okay. And as far as alcohol is concerned, how much were
03:50PM 8 you drinking during that time period?

03:50PM 9 A. A lot.

03:51PM 10 Q. Would it be something that you would drink alcohol at
03:51PM 11 night when you were at the club? Or was it something where
03:51PM 12 you would drink during the day, too?

03:51PM 13 A. No, never during the day. Just when I got there, I would
03:51PM 14 have a drink and then continue.

03:51PM 15 Q. And you would be drinking alcohol at the same time that
03:51PM 16 you were taking marijuana and cocaine?

03:51PM 17 A. Not so much the marijuana. But, you know, drinking, if
03:51PM 18 you use cocaine, you are able to drink more, be more alert,
03:51PM 19 party longer. So as soon as you -- I would start to maybe
03:51PM 20 feel a little more on the drunk side, I would to kind of
03:51PM 21 counteract it out.

03:51PM 22 Q. Okay. Would you agree with me that when you're using
03:51PM 23 substances like that in those types of amounts, it's gonna
03:51PM 24 have some effect on your memory?

03:52PM 25 A. Sure.

03:52PM 1 Q. And, so, you know, fair to say when you're perceiving
03:52PM 2 events that happened between 2007 and 2013 when you're
03:52PM 3 working at Pharaoh's, since you're using alcohol and cocaine
03:52PM 4 and other things, you may not always remember everything
03:52PM 5 perfectly, right?

03:52PM 6 A. Sure.

03:52PM 7 Q. So, one of the things you testified to was that you claim
03:52PM 8 that you've seen Mr. Bongiovanni at Pharaoh's Gentlemen's
03:52PM 9 Club in the past, correct?

03:52PM 10 A. Yes.

03:52PM 11 Q. And you mentioned that you saw him a few times at
03:52PM 12 Pharaoh's?

03:52PM 13 A. Yes.

03:52PM 14 Q. So this would have been in the period that you're dating
03:52PM 15 Peter Gerace in 2007?

03:52PM 16 A. Yes.

03:52PM 17 Q. And I think you observed Mr. Bongiovanni drinking at the
03:52PM 18 bar at Pharaoh's, is that one of the observations?

03:52PM 19 A. Yes.

03:52PM 20 Q. And you knew him to be somewhat of a friend of Peter
03:52PM 21 Gerace?

03:52PM 22 A. Yes.

03:52PM 23 Q. Did you see Peter Gerace ever socialize with Joseph
03:53PM 24 Bongiovanni when he was at Pharaoh's?

03:53PM 25 A. Yes.

03:53PM 1 Q. You saw him socialize with him?

03:53PM 2 A. Yeah. How else was he going introduce me?

03:53PM 3 Q. So, talk to him?

03:53PM 4 A. Yes.

03:53PM 5 Q. They had conversations?

03:53PM 6 A. I don't know if conversations, but they were talking.

03:53PM 7 Q. Yeah. And I guess, like, what I'm getting down to is

03:53PM 8 there was an introduction that Peter Gerace made to you

03:53PM 9 regarding Mr. Bongiovanni, correct?

03:53PM 10 A. Correct.

03:53PM 11 Q. He said, hey, this is Joe?

03:53PM 12 A. Yeah.

03:53PM 13 Q. And did you guys shake hands or anything like that?

03:53PM 14 A. Yes.

03:53PM 15 Q. And that was an introduction. But as far as a

03:53PM 16 conversation, I think you testified earlier you didn't really

03:53PM 17 have a conversation with Joe, correct?

03:53PM 18 A. Not much, no. I don't recall if we did.

03:53PM 19 Q. Just exchanging pleasantries, and that was about it?

03:53PM 20 A. Yes.

03:53PM 21 Q. Okay. Did you ever see Mr. Bongiovanni using cocaine at

03:53PM 22 Pharaoh's Gentlemen's Club?

03:53PM 23 A. No.

03:53PM 24 Q. Did you ever see him going upstairs with Peter Gerace at

03:54PM 25 Pharaoh's Gentlemen's Club?

03:54PM 1 A. No.

03:54PM 2 Q. As far as the business card that you testified to, so
03:54PM 3 Mr. Gerace handed you this card, correct?

03:54PM 4 A. Correct.

03:54PM 5 Q. And this was not in the presence of Mr. Bongiovanni?

03:54PM 6 A. No.

03:54PM 7 Q. And he made that comment to you about, you think, use
03:54PM 8 this if you need to make a call?

03:54PM 9 A. Correct.

03:54PM 10 Q. Something to that effect. I realize I didn't get it
03:54PM 11 perfect there, something to that effect?

03:54PM 12 A. Um-hum.

03:54PM 13 Q. And Mr. Bongiovanni didn't hand his business card to you,
03:54PM 14 right?

03:54PM 15 A. No.

03:54PM 16 Q. He never told you, hey, call me if you need any help?

03:54PM 17 A. No.

03:54PM 18 Q. And you've been interviewed by the FBI a number of times
03:54PM 19 in this case, correct?

03:54PM 20 A. Correct.

03:54PM 21 Q. To help investigate the case and prepare your testimony
03:54PM 22 here today?

03:54PM 23 A. Correct.

03:54PM 24 Q. And it wouldn't shock you to learn that you didn't
03:55PM 25 mention this business card situation the first time you

03:55PM

1 talked to FBI?

03:55PM

2 A. No.

03:55PM

3 Q. As far as your use of cocaine at the club, you testified

03:55PM

4 earlier that you used cocaine in the club, correct?

03:55PM

5 A. Correct.

03:55PM

6 Q. But you also talked about how you also dealt cocaine at

03:55PM

7 the club?

03:55PM

8 A. Correct.

03:55PM

9 Q. And, you know, you've met with prosecutors as well as

03:55PM

10 agents in this case regarding what happened at Pharaoh's,

03:55PM

11 correct?

03:55PM

12 A. Correct.

03:55PM

13 Q. And it wouldn't shock you to learn that you met with them

03:55PM

14 on four different occasions?

03:55PM

15 A. I'm sorry?

03:55PM

16 Q. Sure. Let me repeat the question.

03:55PM

17 It wouldn't shock you to learn that you met with them on

03:55PM

18 four different occasions prior to today, correct?

03:55PM

19 A. No.

03:55PM

20 Q. Do you recall meeting with them in 2021?

03:55PM

21 A. 2021? Yeah, I guess, yes.

03:55PM

22 Q. Okay. Do you remember that being the first time that you

03:55PM

23 met with them?

03:55PM

24 A. I'm unsure of the first time I met with them, what date

03:55PM

25 it, was to be honest with you.

03:55PM 1 Q. Okay.

03:55PM 2 A. I know I've met once at a Tim Horton's, I know I've met a
03:56PM 3 couple times at the office, and here I am today.

03:56PM 4 Q. Okay. And in the time that you talked about your own
03:56PM 5 dealing of cocaine, that didn't come out until your last
03:56PM 6 meeting with the agents and prosecutors in this case,
03:56PM 7 correct?

03:56PM 8 A. Correct.

03:56PM 9 Q. So you withheld that information from them?

03:56PM 10 A. I was never asked about it. And it's something that
03:56PM 11 happened over 12 years ago, and I didn't find it to be
03:56PM 12 important. I don't want to incriminate myself over this. I
03:56PM 13 have changed my life around completely. I'm clean. I have
03:56PM 14 child that I have full custody of. Nobody helped me. I'm
03:56PM 15 just trying to be a good mom, and I don't want any -- I don't
03:56PM 16 want to get in any trouble. And again, like I said, I wasn't
03:56PM 17 asked about it.

03:56PM 18 Q. I understand.

03:56PM 19 **MR. SINGER:** Judge, can we approach one moment?

03:56PM 20 (Sidebar discussion held on the record.)

03:57PM 21 **MR. SINGER:** I didn't want to ask this without first
03:57PM 22 talking with you, but the witness made a statement that she's
03:57PM 23 clean now. So we received discovery which indicated that
03:57PM 24 recently probation -- because she's on probation -- did an
03:57PM 25 inspection of her house, and they located secreted portion of

03:57PM 1 marijuana inside of a garbage can at her house. So I'd like
03:57PM 2 to impeach her with the fact that they found that in her
03:57PM 3 house. She just claimed under oath that she was clean, and I
03:57PM 4 don't think she is.

03:57PM 5 **MR. COOPER:** There's no information that she used the
03:57PM 6 marijuana. There's information that there was marijuana in
03:57PM 7 her house.

03:57PM 8 I can offer as a proffer to the Court when I
03:57PM 9 discussed this with the witness, it's my understanding that
03:57PM 10 she was dating an individual who stored it at her house and
03:57PM 11 hid it, because she had a probation search condition.

03:57PM 12 So, I -- it's not about her lying about using,
03:57PM 13 probation found weed in her house. So I don't think it can be
03:57PM 14 used to make her look like a liar.

03:57PM 15 You can ask her the question were you smoking
03:57PM 16 marijuana back on whatever date? And she's gonna say whatever
03:58PM 17 she says.

03:58PM 18 And then if that's inconsistent with some information
03:58PM 19 you have --

03:58PM 20 **THE COURT:** So, I don't know what she means by
03:58PM 21 "clean," first of all, because someone using marijuana may
03:58PM 22 think the person is clean still. And in some people's
03:58PM 23 estimation, they are.

03:58PM 24 **MR. SINGER:** I realize not in this courtroom always,
03:58PM 25 but --

03:58PM 1 **THE COURT:** Only because I have to. Only because --

03:58PM 2 **MR. SINGER:** I understand, Judge.

03:58PM 3 **THE COURT:** -- personally I don't have a problem with
03:58PM 4 it. But --

03:58PM 5 **MR. COOPER:** To go into that now, to launch into
03:58PM 6 that, would be an attempt to defame her character. Hey,
03:58PM 7 you're on probation. And it is, Judge, it's improper at this
03:58PM 8 time.

03:58PM 9 **THE COURT:** I agree with that. But I think you can
03:58PM 10 ask her whether that it includes marijuana.

03:58PM 11 **MR. COOPER:** There's no information that she smoked.
03:58PM 12 There's no information that she failed a drug test. That's
03:58PM 13 not inconsistent with what she said. It's just trying to
03:58PM 14 dirty her up, Judge.

03:58PM 15 **THE COURT:** You don't have anything that she failed a
03:58PM 16 drug test, right?

03:58PM 17 **MR. SINGER:** No, I don't have anything like that,
03:58PM 18 Judge.

03:58PM 19 **THE COURT:** Then I don't think we can get into that.
03:59PM 20 You can ask her about marijuana, though.

03:59PM 21 **MR. SINGER:** No, that's why I wanted to ask it up
03:59PM 22 here first. Thank you.

03:59PM 23 (End of sidebar discussion.)

03:59PM 24 **MR. SINGER:** Thank you very much, ma'am. I have no
03:59PM 25 further questions.

1

THE COURT: Any redirect?

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MR. COOPER: Yes, briefly, Judge.

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4

REDIRECT EXAMINATION BY MR. COOPER:

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Q. A.P., you were asked some questions about your memory and

6

your ability to recall; do you remember those questions?

7

A. I do.

8

Q. Okay. Do you feel like being here today?

9

A. Not particularly.

10

Q. Were you excited about coming to testify in this trial?

11

A. Not at all.

12

Q. Has everything you told this jury been the truth?

13

A. Yes.

14

MR. COOPER: No further questions.

15

THE COURT: Anything more?

16

MR. SINGER: Nothing more, Your Honor.

17

THE COURT: Okay. You can step down, ma'am. Thank

18

you very much.

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THE WITNESS: Thank you.

20

(Witness excused at 3:59 p.m.)

* * * * *

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CERTIFICATE OF REPORTER

In accordance with 28, U.S.C., 753(b), I
certify that these original notes are a true and correct
record of proceedings in the United States District Court for
the Western District of New York on February 20, 2024.

s/ Ann M. Sawyer

Ann M. Sawyer, FCRR, RPR, CRR

Official Court Reporter

U.S.D.C., W.D.N.Y.

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EXCERPT - EXAMINATION OF A.P.

FEBRUARY 20, 2024

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